

REMARKS UNDER 37 CFR § 1.116

Formal Matters

Claims 14-15 and 18-37 are pending after entry of the amendments set forth herein.

Claims 14-15 and 18-37 were examined. Claims 14-15, 18-20, 25-27 and 37 were rejected.

Claims 29-36 were allowed.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under 35 U.S.C. Section 102(b) (Bugge)

In the Official Action of January 12, 2006, claims 14, 15, 20 and 25 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Bugge, U.S. Patent No. 5,025,779. The Examiner asserted that Bugge discloses a first arm (elongate portion connected to blade 2), a second arm (elongate portion connected to blade 1), a frame/base connecting the first and second arms., and an adjusting member including 7 and 10. The Examiner noted that a mechanism can have more than one component. While Applicants do not disagree that a mechanism can have more than one component, it is respectfully submitted that when a mechanism does have more than one component, those component are mechanically interlinked to function together. The screw 10 and handle 7 of Bugge are not mechanically interlinked to function together, but rather function as independent mechanisms.

Further, it is noted that claim 14 recites that operation of the mechanism to drive the arm member away from each other also drives movement of one of the arm members and one of the rib engaging blades in an upward direction. Operation of the adjusting means 7 of Bugge does not drive movement of one of the arm members and rib engaging blades in an upward direction. Bugge requires a separate and independent operation of the adjusting screw 10 to tilt the plate 1.

Still further, claim 14 has been amended to recite that the mechanism is interposed between the first and second arm members. The screw 10 of Bugge is not interposed between the arm members identified by the Examiner.

With regard to claim 20, it recites that a driving mechanism operably provides a driving action to drive the second arm member away from the first arm member and, with the same driving action, to drive the second rib engaging blade and the second arm vertically with respect to the first rib engaging blade. Operation of the adjusting means 7 of Bugge does not drive movement of one of the arm members and rib engaging blades vertically. Bugge requires a separate and independent operation of the adjusting screw 10 to tilt the plate 1.

Further, claim 20 has been amended to recite that the driving mechanism is mechanically interconnected between the first and second arm members. The screw 10 of Bugge is not mechanically interconnected between the arm members identified by the Examiner.

Claim 25 recites that adjusting the relative distance between the first and second arms, at the same time drives adjustment of the relative height between the first and second retractor blades and the first and second arms. Operation of the adjusting means 7 of Bugge does not adjust the relative height between the first and second arm members. Bugge requires a separate and independent operation of the adjusting screw 10 to tilt the plate 1.

Further claim 25 has been amended to specify that the adjusting means are interconnected between the first and second arms. The screw 10 of Bugge is not mechanically interconnected between the arm members identified by the Examiner.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 14, 15, 20 and 25 under 35 U.S.C. Section 102(b) as being anticipated by Bugge, U.S. Patent No. 5,025,779, as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 102(b) (Phillips)

Claims 14, 15, 20 and 25-37 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Phillips, U.S. Patent No. 4,865,019. The Examiner asserted that Phillips discloses a frame or base portion 11, a first arm 13, a second arm 14, a first blade 30, second blades 46 and a mechanism 25,21 for moving the arms away from each other. The Examiner asserted that as the arm 14 moves away from arm 13, blades 46 pull the edge 37 upward. Therefore, the Examiner concluded that the blades 46 will move upward. In the "Response to Arguments" section of the Office Action on page 2, the Examiner further asserted that Fig. 3 shows the blades 46 move upward relative to the blade 30.

Applicants respectfully traverse the Examiner's assertions. Fig. 3 is a plan view and there is no indication of any upwardly directional movement of either the arm 14 or the blades 46 in this figure.

Fig. 4 shows an elevation of arm 14 relative to arm 13, but the arms 46 have actually moved downwardly relative to the arm 14. More importantly, driving of the arms 13 and 14 apart by actuation of the mechanism 25,21 does not drive either the arm 14 or the blades 46 in an upward direction relative to arm 13 and blade 30. A separate and independent actuation of bar 35 is required to provide any lifting movement.

Claim 14 recites that operation of the mechanism to drive the arm member away from each other also drives movement of one of the arm members and one of the rib engaging blades in an upward direction. As noted above, operation of the ratchet member 21 using handle 25 does not drive movement of one of the arm members of Phillips or blade in an upward direction. Phillips requires a separate and independent operation of the counter pressure bar 35 to lift the arm 14.

Still further, claim 14 has been amended to recite that the mechanism is interposed between the first and second arm members. The mechanism 36,40 to operate bar 35 is not interposed between the first and second arm members 13,14 of Phillips.

With regard to claim 20, it recites that a driving mechanism operably provides a driving action to drive the second arm member away from the first arm member and, with the same driving action, to drive the second rib engaging blade and the second arm vertically with respect to the first rib engaging blade. Operation of the ratchet 21 by handle 25 of Phillips does not drive movement of one of the arm members and rib engaging blades vertically. Phillips requires a separate and independent operation of counter pressure bar 35 via a separate and independent collar and post 36,40 to lift the arm 14.

Further, claim 20 has been amended to recite that the driving mechanism is mechanically interconnected between the first and second arm members. The collar and post 36,40 of Phillips are not mechanically interconnected between the arm members identified by the Examiner.

Claim 25 recites that adjusting the relative distance between the first and second arms, at the same time drives adjustment of the relative height between the first and second retractor blades and the first and second arms. Operation of the ratchet 21 by handle 25 of Phillips does not adjust the relative height between the first and second arm members 13,14. Phillips requires a separate and independent operation of the adjusting the counter pressure bar 35 to lift arm 14.

Further claim 25 has been amended to specify that the adjusting means are interconnected between the first and second arms. The collar and post 36,40 of Phillips are not mechanically interconnected between the arm members identified by the Examiner.

With regard to claims 29-26, Applicants note that the Examiner allowed these claims on page 4 of the Office Action. Further, the Examiner indicated on the Office Action Summary that claims 29-36

are allowed, and did not indicated that these claims are rejected. Clarification by the Examiner is requested.

With regard to claim 37, claim 7 recites that the second arm is rotatably and translationally moveable with respect to the frame. It is respectfully submitted that the arm 14 of Phillips is only translationally movable with respect to the elongated member 11, and is not rotatably movable with respect thereto.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 14, 15, 20 and 25-37 under 35 U.S.C. Section 102(b) as being anticipated by Phillips, U.S. Patent No. 4,865,019, as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Bugge in view of Coker)

Claim 18 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Bugge (U.S. Patent No. 5,025,779) in view of Coker (U.S. Patent No. 5,363,841). Coker was applied as teaching the use of a retractor having blades with fingers.

Coker does nothing to make up for the deficiencies of Bugge in meeting all of the limitations of claim 14. Accordingly, since claim 18 depends from claim 14, it is respectfully submitted that claim 18 is allowable over Bugge and Coker for at least the same reasons that claim 14 is allowable over Bugge, as described above.

Accordingly, for at least the above reasons, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 18 under 35 U.S.C. Section 103(a) as being unpatentable over Bugge (U.S. Patent No. 5,025,779) in view of Coker (U.S. Patent No. 5,363,841), as being clearly inappropriate.

Allowed Claims

Applicants wish to extend their thanks to the Examiner for the allowance of claims 29-36.


Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-006CON6.

Respectfully submitted,
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